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Centers for Medicare & Medicaid Services

42 CFR Parts 412, 413, 424, and 476

[CMS-1588-CN4]

RIN 0938-AR12

Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Fiscal Year 2013 Rates; Hospitals' Resident Caps for Graduate Medical Education Payment Purposes; Quality Reporting Requirements for Specific Providers and for Ambulatory Surgical Centers; Corrections

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors in the correcting document that appeared in the October 3, 2012 **Federal Register** entitled "Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Fiscal Year 2013 Rates; Hospitals' Resident Caps for Graduate Medical Education Payment Purposes; Quality Reporting Requirements for Specific Providers and for Ambulatory Surgical Centers; Correction."

DATES: Effective date: This correcting document is effective [insert date of **filing** for public inspection at the Office of the Federal Register].

Applicability Date: This correcting document is applicable to discharges on or after October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Tzvi Hefter, (410) 786-4487.

SUPPLEMENTARY INFORMATION:

I. Background

In the August 31, 2012 **Federal Register** (77 FR 53258), we published a final rule entitled "Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Fiscal Year 2013 Rates; Hospitals' Resident Caps for Graduate Medical Education Payment Purposes; Quality Reporting Requirements for Specific Providers and for Ambulatory Surgical Centers" (hereinafter referred to as the FY 2013 IPPS/LTCH PPS final rule). To correct typographical and technical errors in the FY 2013 IPPS/LTCH PPS final rule, we published correcting documents that appeared in the October 3, 2012 **Federal Register** (77 FR 60315); October 17, 2012 **Federal Register** (77 FR 63751); and the October 29, 2012 **Federal Register** (77 FR 65495).

The October 3, 2012 correcting document (77 FR 60315) included several corrections to figures and data for the Hospital Readmissions Reduction program. Since that time, we have determined that these corrections still contained errors. Therefore, in this correcting document, we will identify and correct the errors related to the Hospital Readmissions Reduction Program included in October 3, 2012 correcting document (FR Doc. 2012-24307).

II. Summary of Errors and Corrections to Tables Posted on the CMS Website

A. Errors in the October 3, 2012 Correcting Document

On page 60317, in corrections to figures regarding the Hospital Readmissions Reduction Program, we made an error in the: (1) amount by which payments to hospitals would be reduced; and (2) number of hospitals that will have their base operating DRG payments reduced by the readmissions adjustment.

B. Errors in and Corrections to Tables Posted on the CMS Website

In the August 31, 2012 FY 2013 IPPS/LTCH PPS final rule **Federal Register** (77 FR 53717), we list Table 15 as table that is available only through the Internet.

In Table 15.—FY 2013 Final Readmissions Adjustment Factors, we are correcting technical errors in the calculation of the readmissions adjustment factors published for the FY 2013 IPPS/LTCH PPS final rule. For the FY 2013 IPPS/LTCH PPS final rule and for the subsequent October 3, 2012 correcting document, we inadvertently failed to properly include all of Medicare inpatient claims from the FY 2008 MedPAR file and the FY 2009 MedPAR file in determining the base operating DRG payment amounts in the calculation of aggregate payments for excess readmissions and aggregate payments for all discharges that were used to calculate the readmissions adjustment factors. Under the policy we adopted in that final rule, for FY 2013, aggregate payments for excess readmissions and aggregate payments for all discharges are calculated using data from MedPAR claims with discharge dates that are on or after July 1, 2008, and no later than June 30, 2011.

The corrections to Tables 15 discussed in this section of the correction document will be posted on the CMS Web site at [http:// www.cms.hhs.gov/AcuteInpatientPPS/01_overview.asp](http://www.cms.hhs.gov/AcuteInpatientPPS/01_overview.asp). Click on the link on the left side of the screen titled, "FY 2013 IPPS Final Rule Home Page" or "Acute Inpatient--Files for Download."

III. Waiver of Proposed Rulemaking and Delay of Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary

finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(b) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

In our view, this correcting document does not constitute a rulemaking that would be subject to the APA notice and comment or delayed effective date requirements. This correcting document corrects technical errors regarding the Hospital Readmissions Reduction Program in the October 3, 2012 correcting document and Table 15 of the Addendum of the FY 2013 IPPS/LTCH PPS final rule and does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. As a result, this correcting document is intended to ensure that the preamble and the Addendum of the FY 2013 IPPS/LTCH PPS final rule accurately reflect the policies adopted in that rule.

In addition, even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule or delaying the effective date would be contrary to the public interest. Furthermore, such procedures would be unnecessary, as we are not altering the policies that were already subject to comment and finalized in our

final rule. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

IV. Correction of Errors

In FR Doc. 2012-24307 of October 3, 2012 (77 FR 60315), make the following corrections:

1. On page 60317,
 - a. Top half of the page, first column, third full paragraph (section IV.A.1.b. of the correcting document), last line 3, the figure "\$290" is corrected to read "\$280".
 - b. Bottom half of the page following the table, first column, last paragraph (section IV.B.2. of the correcting document), line 29, the figure "2,217" is corrected to read "2,214".

CMS-1588-CN4

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare--Hospital Insurance; and Program No. 93.774, Medicare--Supplementary Medical Insurance Program)

Dated: March 7, 2013

Jennifer M. Cannistra,

Executive Secretary to the Department,

Department of Health and Human Services.

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